

MONTANA LEGISLATIVE HISTORY

Chapter 189 19 97

Bill H _____ S 109 Original bill & history ✓c

H. Committee on Corrections Select Committee S. Committee on Judiciary

Hearing Date(s) 3/06 _____c Hearing Date(s) 1/23 _____c

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_____c

Date Out ~~3/18~~ 3/8 _____c

~~7/05~~ 2/05

Did this bill originate in an interim committee? _____Yes _____No

Committee _____

Report _____

Senate Finance Claims

3/20 x

1/12	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/15	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED	48	0
1/31	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
2/01	FIRST READING		
2/01	REFERRED TO NATURAL RESOURCES		
3/05	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/14	2ND READING CONCURRED	91	6
3/15	3RD READING CONCURRED	90	8
	RETURNED TO SENATE WITH AMENDMENTS		
3/19	2ND READING AMENDMENTS CONCURRED	50	0
3/20	3RD READING CONCURRED AS AMENDED	50	0
3/25	SIGNED BY PRESIDENT		
3/26	SIGNED BY SPEAKER		
3/26	TRANSMITTED TO GOVERNOR		
3/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 174		
	EFFECTIVE DATE: 03/28/97		

SB 109 INTRODUCED BY HOLDEN

LC0322 DRAFTER: NISS

PROVIDE FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS
OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER
CARE PLACEMENTS

BY REQUEST OF DEPARTMENT OF CORRECTIONS

1/01	INTRODUCED		
1/03	REFERRED TO STATE ADMINISTRATION		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/13	REREFERRED TO JUDICIARY		
1/16	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
1/23	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	49	0
2/11	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/12	FIRST READING		
2/12	REFERRED TO CORRECTIONS SELECT COMMITTEE		
3/06	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/13	2ND READING CONCURRED	98	1
3/14	3RD READING CONCURRED	96	1
	RETURNED TO SENATE WITH AMENDMENTS		
3/15	REREFERRED TO FINANCE & CLAIMS TO CONSIDER HOUSE AMENDMENTS		
3/15	REVISED FISCAL NOTE REQUESTED		
3/20	HEARING		
3/20	REVISED FISCAL NOTE RECEIVED		
3/20	COMMITTEE REPORT—RECOMMENDED HOUSE AMENDMENTS BE CONCURRED IN		
3/20	REVISED FISCAL NOTE PRINTED		
3/22	2ND READING AMENDMENTS CONCURRED	49	0
3/24	3RD READING CONCURRED AS AMENDED	49	1
3/27	SIGNED BY PRESIDENT		

3/27 SIGNED BY SPEAKER
 3/27 TRANSMITTED TO GOVERNOR
 4/01 SIGNED BY GOVERNOR
 CHAPTER NUMBER 189
 EFFECTIVE DATE: 04/01/97—SECTIONS 21 & 31
 EFFECTIVE DATE: 07/01/97—SECTION 4
 EFFECTIVE DATE: 10/01/97—SECTIONS 1-3, 5-20 & 22-30

SB 110 INTRODUCED BY BECK *LC0324 DRAFTER: FOX*

AUTHORIZE THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ESTABLISH PARENTAL CONTRIBUTIONS TOWARD A YOUTH'S CARE, CUSTODY, AND TREATMENT

BY REQUEST OF DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

1/01	INTRODUCED		
1/03	REFERRED TO STATE ADMINISTRATION		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/15	HEARING		
1/16	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED	41	5
1/27	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
1/28	FIRST READING		
1/28	REFERRED TO JUDICIARY		
3/07	HEARING		
3/07	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

SB 111 INTRODUCED BY WATERMAN *LC0386 DRAFTER: NISS*

PROVIDE FOR MONTHLY REPORTS TO POLICYHOLDERS, PROVIDE DEFINITIONS, REGULATE POLICY TERMS, ETC., RELATED TO LONG-TERM CARE INSURANCE

BY REQUEST OF STATE AUDITOR

1/01	INTRODUCED		
1/03	REFERRED TO BUSINESS & INDUSTRY		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/13	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/21	HEARING		
1/29	TABLED IN COMMITTEE		
3/03	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL		
	DIED IN COMMITTEE		

SB 112 INTRODUCED BY VAN VALKENBURG *LC0390 DRAFTER: MALY*

CREATE A VIATICAL SETTLEMENT ACT

BY REQUEST OF STATE AUDITOR

1/01	INTRODUCED		
1/03	REFERRED TO BUSINESS & INDUSTRY		
1/06	FIRST READING		
1/21	HEARING		
1/29	TABLED IN COMMITTEE		
2/13	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	50	0

SENATE BILL NO. 109

INTRODUCED BY HOLDEN

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN OFFENDERS; PROVIDING FOR QUALIFICATIONS OF PERSONS CONDUCTING PRESENTENCE INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM JAIL FOR PURPOSES OF EMPLOYMENT; REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE CONCERNING A PERSON'S CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE DEPARTMENT, CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS; AMENDING SECTIONS 1-1-207, 3-5-901, 46-18-101, 46-18-111, 46-18-201, 46-18-225, 46-18-701, 46-23-201, 46-23-215, 46-23-401, 46-24-203, 46-24-212, 53-1-102, 53-1-103, 53-1-104, 53-1-202, 53-1-203, 53-1-301, 53-1-302, 53-30-101, 53-30-102, 53-30-105, 53-30-131, 53-30-132, 53-30-151, 53-30-503, AND 87-2-802, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-1-207, MCA, is amended to read:

"1-1-207. Miscellaneous terms. (1) Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

~~(1)(a)~~ **(a)** "Bribe" means anything of value or advantage, present or prospective, or any promise or undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in ~~his~~ the person's action, vote, or opinion in any public or official capacity.

(b) "Montana state prison" means the Montana state prison as defined in 53-30-101(3)(b).

~~(2)(c)~~ **(c)** "Peace officer" has the meaning as defined in 46-1-202.

(d) "State prison" or "prison" means:

(i) the Montana state prison as described in 53-30-101(1);

(ii) the Montana women's prison as defined in 53-30-101(3)(c);

(iii) a Montana regional correctional facility;

(iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to 53-30-106; or

(v) a combination of the facilities listed in this subsection (1)(d).

~~(3)(e)~~ "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place.

(2) Subsections (1)(b) and (1)(d) do not authorize a court to sentence a person to a correctional facility listed in those subsections."

Section 2. Section 3-5-901, MCA, is amended to read:

"3-5-901. State assumption of certain district court expenses -- designation as district court criminal reimbursement program. (1) To the extent that revenue is available under 61-3-509, the state shall fund:

(a) the following district court expenses in criminal cases only:

(i) salaries of court reporters;

(ii) fees for transcripts of proceedings;

(iii) witness fees and necessary expenses;

(iv) juror fees;

(v) expenses for indigent defense; and

(vi) expenses for psychiatric examinations;

(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings; and

(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

(i) transcript fees;

(ii) witness fees; and

1 (iii) expenses for psychiatric examinations.

2 (2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund
3 the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided
4 in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) and
5 the costs of administering this section.

6 (3) If money appropriated for the expenses listed in subsection (1):

7 (a) exceeds the amount necessary to fully fund those expenses, up to \$500,000 of the excess
8 amount must be used for youth court and probation foster care placements if the department of corrections
9 certifies to the supreme court that appropriations for youth court and probation foster care placements will
10 be inadequate to fund those costs and remaining excess amounts must be used for district court grants as
11 provided in 7-6-2352; or

12 (b) is insufficient to fully fund those expenses, the county is responsible for payment of the
13 balance."
14

15 **Section 3.** Section 46-18-101, MCA, is amended to read:

16 **"46-18-101. Correctional policy.** (1) It is the purpose of this section to declare the correctional
17 policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted
18 are drawn to implement the policy established by this section.

19 (2) The correctional policy of the state of Montana is to protect society by preventing crime
20 through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible
21 for and must be held accountable for the individual's actions, including, whenever possible, the restoration
22 of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be
23 implemented to impress upon each individual the responsibility for obeying the law. To achieve this end,
24 it is the policy of the state to ~~assure~~ ensure that prosecution of criminal offenses occurs whenever probable
25 cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the
26 state's policy that persons convicted of a crime be dealt with in accordance with their individual
27 characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize
28 that the interests of crime victims should be considered so that, to the extent possible, victims of crime
29 may be protected from threat of future harm by the offender.

30 (3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:

(i) the crime committed;

(ii) the prospects of rehabilitation of the offender;

(iii) the circumstances under which the crime was committed;

(iv) the criminal history of the offender; and

(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's correctional system.

(b) Dangerous offenders who habitually violate the law and victimize the public must be removed from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt with by probation, suspended sentence, community corrections, community service, or fine whenever the disposition appears practicable and not detrimental to the needs of public safety and the welfare of the individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of costs as provided in 46-18-232, and payment of costs of court-appointed counsel as provided in 46-8-113.

(4) It is also the policy of the state that alternatives to imprisonment, such as community corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate in other activities that will reduce recidivism and enable offenders to become productive members of society."

Section 4. Section 46-18-111, MCA, is amended to read:

"46-18-111. (Temporary) Presentence investigation -- when required. (1) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing. If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than 16 years of age when the offense was committed, the investigation must include an evaluation of the defendant and a recommendation as to treatment of the offender in the least restrictive environment, considering community safety and offender needs. The evaluation must be completed by a person who is determined to be qualified under guidelines established by the department of corrections. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by

the county or the state, or both, under Title 3, chapter 5, part 9.

(2) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation officer is presented to and considered by the district court. The district court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor.

46-18-111. (Effective July 1, 1997) Presentence investigation -- when required. (1) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing. If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, ~~or 45-5-507, or under 45-5-625, or 45-5-627~~ involving a victim who was less than 16 years of age when the offense was committed, the investigation must include ~~an~~ a psychosexual evaluation of the defendant and a recommendation as to treatment of the offender in the least restrictive environment, considering the risk the offender presents to the community safety and offender needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a ~~person who is determined to be qualified under guidelines established by the department of corrections~~ sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the professional and occupational licensing bureau of the department of commerce. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(2) ~~Unless the court makes a finding that a report is unnecessary, The psychosexual evaluation required by subsection (1) may not be waived for a defendant convicted of any offense not an offense~~ enumerated in subsection (1) that may result in incarceration for 1 year or more. A defendant convicted of an offense enumerated in subsection (1) may not be sentenced before a written presentence investigation report by a probation officer is presented to and considered by the district court. The district court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor sexual offense."

1 **Section 5.** Section 46-18-201, MCA, is amended to read:

2 **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found
3 guilty of an offense upon a verdict or a plea of guilty, the court may:

4 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for
5 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise
6 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.
7 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the
8 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 9 (i) jail base release;
10 (ii) jail time not exceeding 180 days;
11 (iii) conditions for probation;
12 (iv) payment of the costs of confinement;
13 (v) payment of a fine as provided in 46-18-231;
14 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
15 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
16 (viii) with the approval of the facility or program, an order that the offender be placed in a
17 community corrections facility or program as provided in 53-30-321;
18 (ix) community service;
19 (x) home arrest as provided in Title 46, chapter 18, part 10;
20 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of
21 society;

22 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
23 or

24 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
25 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period
26 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the
27 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable
28 restrictions or conditions may include any of those listed in subsection (1)(a).

- 29 (c) impose a fine as provided by law for the offense;
30 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed

1 counsel as provided in 46-8-113;

2 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit
3 the defendant to the department of corrections for placement in an appropriate correctional institution or
4 program;

5 (f) with the approval of the facility or program, order the offender to be placed in a community
6 corrections facility or program as provided in 53-30-321; or

7 (g) impose any combination of subsections (1)(b) through (1)(f).

8 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim
9 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim
10 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay
11 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

12 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be
13 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for
14 a felony, regardless of whether any other conditions are imposed.

15 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court
16 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence
17 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be
18 allowed for jail or home arrest time already served.

19 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years
20 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:
21 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),
22 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

23 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence
24 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

25 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred
26 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the
27 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was
28 suspended.

29 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a
30 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred

1 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

2 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in
3 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and
4 Title 46, chapter 23, part 5.

5 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to
6 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender
7 program.

8 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to
9 imprisonment of the offender in the state prison, including placement of the offender in a community
10 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the
11 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison
12 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were
13 not selected, based on the criteria contained in 46-18-225.

14 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has
15 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

16 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for
17 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise
18 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.
19 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the
20 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 21 (i) jail base release;
22 (ii) jail time not exceeding 180 days;
23 (iii) conditions for probation;
24 (iv) payment of the costs of confinement;
25 (v) payment of a fine as provided in 46-18-231;
26 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
27 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
28 (viii) with the approval of the facility or program, an order that the offender be placed in a
29 community corrections facility or program as provided in 53-30-321;
30 (ix) community service;

1 (x) home arrest as provided in Title 46, chapter 18, part 10;

2 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of
3 society;

4 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

5 or

6 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

7 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period
8 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the
9 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable
10 restrictions or conditions may include any of those listed in subsection (1)(a).

11 (c) impose a fine as provided by law for the offense;

12 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed
13 counsel as provided in 46-8-113;

14 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit
15 the defendant to the department of corrections for placement in an appropriate correctional institution
16 facility or program;

17 (f) with the approval of the facility or program, order the offender to be placed in a community
18 corrections facility or program as provided in 53-30-321; or

19 (g) impose any combination of subsections (1)(b) through (1)(f).

20 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim
21 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim
22 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay
23 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

24 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be
25 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for
26 a felony, regardless of whether any other conditions are imposed.

27 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court
28 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence
29 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be
30 allowed for jail or home arrest time already served.

(5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual offender program.

(11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225.

(12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does not apply to a person sentenced under 46-18-219."

Section 6. Section 46-18-225, MCA, is amended to read:

"46-18-225. (Temporary) Criteria for sentencing nonviolent felony offenders. Prior to sentencing

1 a nonviolent felony offender to a term of imprisonment in ~~the a state prison or the women's correctional~~
2 ~~system~~, the court shall take into account whether:

3 (1) the interests of justice and the needs of public safety truly require the level of security provided
4 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

5 (2) the needs of the offender can be better served in the community or in a facility or program
6 other than ~~the a state prison or the women's correctional system~~;

7 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish
8 a defense;

9 (4) the offender acted under strong provocation;

10 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal
11 conduct;

12 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for
13 a substantial period of time before the commission of the present crime;

14 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

15 (8) the character and attitude of the offender indicate that the offender is likely to commit another
16 crime;

17 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

18 (10) imprisonment of the offender would create an excessive hardship on the offender or the
19 offender's family.

20 **46-18-225. (Effective July 1, 1997) Criteria for sentencing nonviolent felony offenders.** Prior to
21 sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in
22 ~~the a state prison or the women's correctional system~~, the court shall take into account whether:

23 (1) the interests of justice and the needs of public safety truly require the level of security provided
24 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

25 (2) the needs of the offender can be better served in the community or in a facility or program
26 other than ~~the a state prison or the women's correctional system~~;

27 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish
28 a defense;

29 (4) the offender acted under strong provocation;

30 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal

1 conduct;

2 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for
3 a substantial period of time before the commission of the present crime;

4 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

5 (8) the character and attitude of the offender indicate that the offender is likely to commit another
6 crime;

7 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

8 (10) imprisonment of the offender would create an excessive hardship on the offender or the
9 offender's family."

10

11 **Section 7.** Section 46-18-701, MCA, is amended to read:

12 **"46-18-701. Parole Limited release during employment hours.** (1) A court, after having sentenced
13 a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and
14 sheriff of ~~such~~ the county and with the consent of the convicted person, order that any part of the
15 imprisonment ~~so~~ imposed be served in confinement with ~~parole~~ limited release during the hours or periods
16 the convicted person is actually employed.

17 (2) Upon the issuance of ~~such~~ an order for limited release under this part, the sheriff shall arrange
18 for the convicted person to continue ~~his~~ the person's regular employment without interruption insofar as
19 is reasonably possible. However, ~~said~~ the prisoner shall must be confined in the county jail during the hours
20 when ~~he~~ the prisoner is not employed."

21

22 **Section 8.** Section 46-23-201, MCA, is amended to read:

23 **"46-23-201. (Temporary) Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions
24 contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order
25 any person confined in the Montana state prison or the women's correctional system, except persons under
26 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there
27 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the
28 community.

29 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has
30 served at least one-fourth of the prisoner's full term.

(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(4) A parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

46-23-201. (Effective July 1, 1997) Prisoners eligible for nonmedical parole. (1) Subject to the restrictions contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order any person confined in the Montana state prison or the women's ~~correctional system~~ prison, except persons under sentence of death and persons serving sentences imposed under 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community.

(2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(4) A parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."

Section 9. Section 46-23-215, MCA, is amended to read:

"46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the institution correctional facility from which the prisoner was released but is subject to the orders of the board.

(2) When an order for parole is issued, it must recite the conditions of parole. If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a prisoner in the Montana state prison or the Montana women's prison has been approved for parole on condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the warden may grant the prisoner a

1 furlough, not to exceed 10 days, for purposes of fulfilling the condition. While on furlough, the prisoner
2 remains in the legal custody of the prison and is subject to all other conditions recited by the board."

3
4 **Section 10.** Section 46-23-401, MCA, is amended to read:

5 **"46-23-401. Definitions.** Unless the context requires otherwise, in this part, the following
6 definitions apply:

7 (1) "Applicant" means any prisoner who is eligible under 46-23-411 and who signs an application
8 to participate in the supervised release program.

9 (2) "Board" means the board of pardons and parole provided for in 2-15-2302.

10 (3) "Department" means the department of corrections provided for in 2-15-2301.

11 (4) "Prisoner" means a person sentenced by a state district court to a term of confinement in the
12 state prison.

13 (5) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and
14 reservation, or any person, group, association, or organization approved by the department to undertake
15 the supervision of prisoners participating in the supervised release program.

16 (6) "State prison" means the Montana state prison at Deer Lodge, the Montana women's prison,
17 or any adult correctional facility designated by the department.

18 (7) "Supervising agent" means a probation and parole officer of the department."
19

20 **Section 11.** Section 46-24-203, MCA, is amended to read:

21 **"46-24-203. Prompt notification to victims and witnesses of certain offenses.** (1) A person
22 described in subsection (2) who provides the appropriate official with a current address and telephone
23 number must receive prompt advance notification, if possible, of proceedings relating to the person's case,
24 including:

25 (a) the arrest of an accused;

26 (b) the release of the accused pending judicial proceedings;

27 (c) the crime with which the accused has been charged, including an explanation of the elements
28 of the offense when necessary to an understanding of the nature of the crime;

29 (d) proceedings in the prosecution of the accused, including entry of a plea of guilty and the setting
30 of a trial date;

(e) if the accused is convicted or pleads guilty;

(i) the function of a presentence report;

(ii) the name, office address, and telephone number of the person preparing the report; and

(iii) the convicted person's right of access to the report, as well as the victim's right under 46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted person's right to be present at the sentencing proceeding and to have access to the victim's statement;

(f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of imprisonment, if imposed; and

(g) the right under 46-24-212 of a victim of a felony offense to receive information from the department of corrections concerning the convicted ~~person's incarceration~~ person.

(2) A person entitled to notification under subsection (1) must be a victim or witness of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a relative of ~~such~~ a victim or witness who is a minor, or a relative of a homicide victim."

Section 12. Section 46-24-212, MCA, is amended to read:

"46-24-212. Information concerning confinement. Upon request of a victim of a felony offense, the department of corrections or the board of pardons and parole, as applicable, shall:

(1) promptly inform the victim of the following information concerning a prisoner committing the offense:

(a) the custody level;

(b) the projected discharge or parole eligibility date;

(c) the estimated actual date of the prisoner's release ~~discharge~~ from confinement ~~in the Montana state prison or parole~~, if reasonably ascertainable;

~~(2)(d) promptly inform the victim of the time and place of a parole hearing concerning the prisoner and of the victim's right to submit a statement to the board of pardons~~ and parole under 46-23-202; and

(e) the community in which the prisoner will reside after parole;

~~(3)(2)~~ provide reasonable advance notice to the victim before release of the defendant on furlough or to a work-release program, half-way house, or other community-based program or correctional facility; and

~~(4)(3)~~ promptly inform the victim of the occurrence of any of the following events concerning the

1 prisoner:

- 2 (a) an escape from a correctional or mental health facility or community program;
3 (b) a recapture;
4 (c) a decision of the board of pardons;
5 (d) a decision of the governor to commute the sentence or to grant executive clemency;
6 (e) a release from confinement and any conditions attached to the release; and
7 (f) the prisoner's death."

8

9 **Section 13.** Section 53-1-102, MCA, is amended to read:

10 **"53-1-102. Removal of patients from state custodial institutions or correctional facilities without**
11 **permission a misdemeanor.** (1) A person, other than a parent or one having legal custody of ~~the person of~~
12 ~~the a~~ patient or inmate, who permits or assists a resident patient or inmate of a state custodial institution
13 or correctional facility to leave the institution or facility without permission from the properly authorized
14 member of the staff or proper court order is guilty of a misdemeanor and upon conviction is punishable by
15 imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$500, or both.
16 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates
17 of ~~the a~~ Montana ~~state~~ prison."

18

19 **Section 14.** Section 53-1-103, MCA, is amended to read:

20 **"53-1-103. Distribution of alcoholic beverages or drugs to patients at state custodial institutions**
21 **or correctional facilities a misdemeanor.** (1) A person who knowingly sells or distributes or attempts to sell
22 or distribute alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution
23 or correctional facility without permission of the medical staff is guilty of a misdemeanor and, upon
24 conviction, is punishable by imprisonment in a county jail not exceeding 6 months or by a fine not
25 exceeding \$500, or both.

26 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates
27 of ~~the a~~ Montana ~~state~~ prison."

28

29 **Section 15.** Section 53-1-104, MCA, is amended to read:

30 **"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following

institutions ~~or, correctional facilities, or other~~ facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written notification to the department of justice ~~whenever~~ when the person is admitted or released by it:

- (a) Montana state hospital;
- (b) ~~state~~ a Montana prison;
- (c) ~~Mountain View school~~ a Montana youth correctional facility; or
- (d) ~~Pine Hills school; or~~
- (e) ~~any~~ a county or city detention facility.

(2) The notification must disclose:

- (a) the name of the person;
- (b) where the person is or will be located; and
- (c) the type of fire the person was involved in."

Section 16. Section 53-1-202, MCA, is amended to read:

"53-1-202. (Temporary) Department of corrections. (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

- (a) the Montana state prison;
- (b) the Montana women's ~~correctional system~~ prison; and
- (c) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:
 - (i) in prerelease centers;
 - (ii) under intensive supervision;
 - (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or
 - (iv) in other appropriate programs.

(3) Youth correctional services consist of the following ~~institutional components to diagnose, care for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:

- (a) ~~Mountain View school;~~

~~(b)(a)~~ Pine Hills school or other juvenile correctional facility; and

~~(e)(b)~~ any other institution facility or program that provides ~~care~~ custody and services for delinquent youth.

(4) A state institution or facility may not be moved, discontinued, or abandoned without the consent of the legislature.

53-1-202. (Effective on occurrence of contingency) Department of corrections. (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

(a) the Montana state prison;

(b) the Montana women's ~~correctional system~~ prison;

(c) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:

(i) in prerelease centers;

(ii) under intensive supervision;

(iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

(iv) in other appropriate programs; and

(d) the forensic unit at Warm Springs.

(3) Youth correctional services consist of the following ~~institutional components to diagnose, care for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:

~~(a) Mountain View school;~~

~~(b)(a)~~ Pine Hills school or other juvenile correctional facility; and

~~(e)(b)~~ any other institution facility or program that provides ~~care~~ custody and services for delinquent youth.

(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature."

Section 17. Section 53-1-203, MCA, is amended to read:

1 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections

2 shall:

3 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for
4 the admission, custody, transfer, and release of persons in department programs except as otherwise
5 provided by law. However, rules adopted by the department may not amend or alter the statutory powers
6 and duties of the state board of pardons and parole.

7 (b) subject to the functions of the department of administration, lease or purchase lands for use
8 by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably
9 used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities
10 for the food products that can be grown or produced on the lands and the relative value of agricultural
11 programs in the treatment or rehabilitation of the persons confined in the ~~institutions~~ correctional facilities;

12 (c) contract with private, nonprofit Montana corporations to establish and maintain
13 community-based prerelease centers for purposes of preparing inmates of ~~the a~~ Montana ~~state~~ prison who
14 are approaching parole eligibility or discharge for release into the community. The centers shall provide a
15 less restrictive environment than the prison while maintaining adequate security. The centers must be
16 operated in coordination with other department correctional programs, including the supervised release
17 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's
18 authority to operate and maintain community-based prerelease centers.

19 (d) utilize the staff and services of other state agencies and units of the Montana university system,
20 within their respective statutory functions, to carry out its functions under this title;

21 (e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~
22 correctional facilities, including programs and facilities for the diagnosis, treatment, care, and aftercare of
23 persons placed in ~~institutions~~ correctional facilities;

24 (f) encourage the establishment of programs at the local and ~~institutional~~ facility level for the
25 rehabilitation and education of adult felony offenders;

26 (g) administer all state and federal funds allocated to the department for youth in need of
27 supervision and delinquent youth, as defined in 41-5-103;

28 (h) collect and disseminate information relating to youth in need of supervision and delinquent
29 youth;

30 (i) maintain adequate data on placements that it funds in order to keep the legislature properly
31

1 informed of the specific information, by category, related to youth in need of supervision and delinquent
2 youth in out-of-home care facilities;

3 (j) provide funding for and place youth who are ~~alleged or~~ adjudicated to be delinquent or in need
4 of supervision and who are ~~referred or~~ committed to the department;

5 (k) administer youth correctional facilities;

6 (l) provide supervision, care, and control of youth released from a state youth correctional facility;
7 and

8 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

9 (i) provide for ~~children in need of temporary protection or correctional services~~ delinquent youth
10 committed to the department; and

11 (ii) coordinate and apply the principles of modern ~~institutional~~ corrections administration to the
12 ~~institutions in the department~~ facilities and programs.

13 (2) The department and a private, nonprofit Montana corporation may not enter into a contract
14 under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 that
15 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

16 (3) The department of corrections may enter into contracts with nonprofit corporations or
17 associations or private organizations to provide substitute care for youth in need of supervision and
18 delinquent youth in youth ~~care~~ correctional facilities."

19
20 **Section 18.** Section 53-1-301, MCA, is amended to read:

21 **"53-1-301. Permitted institutional or correctional facility industries, powers of departments, and**
22 **incentive pay to inmates.** (1) Except as provided in subsection (4), the department of corrections or the
23 department of public health and human services may:

24 (a) establish industries in institutions or correctional facilities that will result in the production or
25 manufacture of products and the rendering of services as may be needed by any department or agency of
26 the state or any political subdivision of the state, by any agency of the federal government, by any other
27 states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation
28 of residents in institutions;

29 (b) obtain federal certification of specific prison industries programs in order to gain access to
30 interstate markets for prison industries products;

1 (c) contract with private industry for the sale of goods or components manufactured or produced
2 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
3 programs;

4 (d) print catalogs describing goods manufactured or produced by institutions or correctional
5 facilities and distribute the catalogs;

6 (e) fix the sale price for goods produced or manufactured at institutions or correctional facilities.
7 Prices may not exceed prices existing in the open market for goods of comparable quality.

8 (f) require institutions or correctional facilities to purchase needed goods from other institutions
9 or correctional facilities;

10 (g) provide for the repair and maintenance of property and equipment of institutions or correctional
11 facilities by their residents ~~of institutions~~;

12 (h) provide for construction projects, up to the aggregate sum of \$25,000 per project, performed
13 by residents of institutions or correctional facilities, except when the construction work is covered by a
14 collective bargaining agreement;

15 (i) provide for the repair and maintenance at an institution or correctional facility of furniture and
16 equipment of any state agency;

17 (j) provide for the manufacture at an institution or correctional facility of motor vehicle license
18 plates and other related articles;

19 (k) sell manufactured or agricultural products and livestock on the open market;

20 (l) provide for the manufacture at an institution or correctional facility of highway, road, and street
21 marking signs for the use of the state or any of its political subdivisions, except when the manufacture of
22 the signs is in violation of a collective bargaining contract;

23 (m) pay an inmate or resident of an institution or correctional facility from receipts from the sale
24 of products produced or manufactured or services rendered in a program in which the inmate or resident
25 is working;

26 (n) collect 15% of the net wages paid to an inmate employed in a federally certified prison
27 industries program for deposit in the Montana crime victims compensation and assistance account
28 established under 53-9-109; and

29 (o) collect from an inmate employed in a federally certified prison industries program charges for
30 room and board consistent with charges established by the director for inmates assigned to prerelease

1 centers.

2 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be
3 based on the following criteria:

4 (i) knowledge and skill;

5 (ii) attitude toward authority;

6 (iii) physical effort;

7 (iv) responsibility for equipment and materials; and

8 (v) regard for safety of others.

9 (b) The maximum rate of pay must be determined by the appropriation established for each
10 program, except that an inmate employed in a federally certified prison industries program must be paid at
11 a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

12 (3) Premiums for workers' compensation and occupational disease coverage for federally certified
13 prison industries programs must be paid by the prison industries program or by the department of
14 corrections. If the department of corrections pays the premium, reimbursement for premium payments for
15 workers' compensation and occupational disease coverage must be made to the department of corrections
16 by the private company contracting with the federally certified prison industries program for services and
17 products.

18 (4) Except as provided in subsection (5), furniture made in ~~the~~ a prison may be purchased by state
19 agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made
20 furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for
21 sale to international markets.

22 (5) Any state ~~institution, correctional~~ facility, or program operated by the department of corrections
23 may purchase prison-made furniture without complying with the procurement provisions under Title 18,
24 chapter 4."

25
26 **Section 19.** Section 53-1-302, MCA, is amended to read:

27 **"53-1-302. Disposition of receipts from sale of goods.** Receipts from the sale of goods produced
28 or manufactured by an institution ~~shall~~ or correctional facility must be deposited in the appropriate
29 enterprise or internal service fund for the use of the industries program of the institution or facility."

30

Section 20. Section 53-30-101, MCA, is amended to read:

"53-30-101. Location and function of ~~prison and women's correctional system prisons~~ --

definitions. (1) The ~~institution~~ correctional facility at Deer Lodge is the Montana state prison and ~~as~~ its primary function ~~provides facilities~~ is to provide for the custody, treatment, training, and rehabilitation of adult male criminal offenders. The custody, treatment, training, and rehabilitation of adult male offenders may also occur at a correctional facility in another jurisdiction pursuant to an agreement as provided in 53-30-106.

(2) The ~~institution~~ correctional facility located in Billings is the Montana women's ~~correctional system~~ prison, and its primary function is to provide ~~facilities~~ for the custody, treatment, training, and rehabilitation of adult female criminal offenders.

(3) As used in this title, unless the context indicates otherwise, the following definitions apply:

(a) "Montana prison" means:

(i) the Montana state prison;

(ii) the Montana women's prison;

(iii) a Montana regional correctional facility;

(iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to 53-30-106; or

(v) a combination of the facilities listed in this subsection (3)(a).

(b) "Montana state prison" means:

(i) the correctional facility located at Deer Lodge;

(ii) a Montana regional correctional facility; or

(iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to 53-30-106.

(c) "Montana women's prison" or "women's prison" means:

(i) the correctional facility located at Billings;

(ii) a Montana regional correctional facility; or

(iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to 53-30-106."

Section 21. Section 53-30-102, MCA, is amended to read:

1 **"53-30-102. Qualifications of warden of state prison and warden of women's ~~correctional system~~**
2 **prison.** The warden of the Montana state prison and the warden of the women's ~~correctional system~~ prison
3 must be persons trained through education and experience in directing a training, rehabilitation, or custodial
4 program in a penal institution."

5
6 **Section 22.** Section 53-30-105, MCA, is amended to read:

7 **"53-30-105. (Temporary) Good time allowance.** (1) The department of corrections may grant a
8 good time allowance to inmates housed at an adult correctional facility or a supervised release program
9 facility. The good time allowance may operate as a credit on the inmate's sentence as imposed by the
10 court, conditioned upon the inmate's good behavior and compliance with the rules adopted by the
11 department. The department may not grant good time allowance to exceed 1 day for each day served at
12 an adult correctional facility or a supervised release program facility.

13 (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the
14 department, the inmate may be punished by the forfeiture of part or all good time allowances.

15 (3) A person may not earn good time under this section while the person is on probation. A person
16 may earn good time while on parole at the rate of 1 day per day served on parole. If the department
17 determines that a person has violated the conditions of parole, it may, in its discretion, deduct good time
18 credit accumulated under this subsection in an amount up to and including all credit accumulated on the
19 date of the violation.

20 (4) The department may restore all or portions of any previously forfeited good time as a result of
21 subsequent good behavior.

22 (5) If the population at the Montana state prison or the Montana women's ~~correctional system~~
23 prison exceeds the design capacity of the institution, the department may grant an inmate additional good
24 time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the
25 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award
26 of good time under this subsection must generally be provided to inmates who are nearest to parole
27 eligibility or discharge. (Repealed effective January 31, 1997--secs. 12(2), 13, Ch. 372, L. 1995.)"

28
29 **Section 23.** Section 53-30-131, MCA, is amended to read:

30 **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any

1 ~~institutional~~ correctional facility industry operated at the a Montana state prison under Title 53, chapter 1,
2 part 3, the department of corrections shall conduct a prison industries training program.

3 (2) The purpose of the prison industries training program is to:

4 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by
5 exposing inmates to worthwhile training;

6 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus
7 providing experience beyond mere training, inculcating inmates with good production and work habits, and
8 providing them with a means to earn money that will be available to them upon release.

9 (3) The prison industries training program consists of vocational training, on-the-job training, and
10 production experience. The department may contract with public and private vocational education entities
11 to provide this training.

12 (4) The program may provide training and experience involving cultivation, production, repair,
13 construction, refurbishment, service, and related processes involving personal property, including but not
14 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The
15 products and services, with the exception of livestock and agricultural products produced from the Montana
16 state prison ranch and products or services of a federally certified prison industries program, may be
17 provided only to state agencies, local government units, school districts, authorities, and other
18 governmental entities."

19
20 **Section 24.** Section 53-30-132, MCA, is amended to read:

21 **"53-30-132. Inmate participation and status -- prison industries and vocational training program**
22 **-- wages and benefits.** (1) While engaged in on-the-job training and production, inmates not employed in
23 a federally certified prison industries program may be paid a wage ~~commensurate with their production~~
24 ~~function in accordance with 53-1-301(2). Wages must be established at a rate that encourages efficient~~
25 ~~production and effective levels of inmate participation.~~ Inmates employed in a federally certified prison
26 industries program must be paid as provided in 53-1-301(2).

27 (2) Inmates not working in a federally certified prison industries training program are not
28 employees, either public or private, and employment rights accorded other classes of workers do not apply
29 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and
30 benefits as provided in 39-71-744.

(3) Able-bodied persons committed to ~~the~~ a Montana ~~state~~ prison as adult offenders must be required to perform work as provided for by the department of corrections, including the manufacture of products or the rendering of services."

Section 25. Section 53-30-151, MCA, is amended to read:

"53-30-151. Prison maintenance by inmates. An inmate of ~~the~~ a Montana ~~state~~ prison may be required to:

- (1) keep ~~his own~~ the living quarters assigned to that inmate clean and orderly;
- (2) perform general maintenance and repair work on prison grounds and facilities and assist in providing services essential to the administration of the prison, including but not limited to food and laundry services."

Section 26. Section 53-30-503, MCA, is amended to read:

"53-30-503. Definitions. As used in this part, the following definitions apply:

- (1) "Department" means the department of corrections.
- (2) "Interlocal cooperation commission" means a commission established in accordance with Title 7, chapter 11, part 2.
- (3) "Local governmental entity" means:
 - (a) a local governmental unit;
 - (b) a multijurisdictional service district; or
 - (c) an interlocal cooperation commission.
- (4) "Multijurisdictional service district" means a district established in accordance with Title 7, chapter 11, part 11.
- (5) "Regional correctional facility" means a correctional facility, except the Montana state prison, the women's ~~correctional system~~ prison, or the Swan River boot camp, designed, constructed, or operated under this part by a local governmental entity or the department, or both, for the housing of convicted felons."

Section 27. Section 87-2-802, MCA, is amended to read:

"87-2-802. Veterans in VA hospitals and residents of state institutions. Any veteran who is a

1 patient residing at a hospital operated by the department of veterans affairs, within or outside the state,
2 and residents of all correctional facilities and institutions under the jurisdiction of the department of
3 corrections and the department of public health and human services, except the Montana state prison at
4 Deer Lodge or the Montana women's correctional system prison, ~~will be entitled to~~ may fish without a
5 license. The residents shall carry a permit on a form prescribed by the department and signed by the
6 superintendent of the institution in lieu of a license."

7
8 **NEW SECTION. Section 28. Effective dates.** (1) Except as provided in subsections (2) and (3),
9 [this act] is effective October 1, 1997.

10 (2) [Section 16 and this section] are effective on passage and approval.

11 (3) [Section 4] is effective July 1, 1997.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0109, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

Bill for an act related to the Department of Corrections and correctional facilities; providing for certification by the Department of Corrections of appropriations for Youth Court and probation foster care placements; clarifying names of prisons and correctional facilities and the application of certain statutes to those prisons and facilities; requiring a psychosexual evaluation of certain offenders; providing for qualifications of persons conducting presentence investigations; providing for limited release from jail for purposes of employment; requiring that certain information be made available concerning a person's confinement; clarifying statutes relating to the powers of the Department, correctional facilities, and Prison Industries Training programs and providing effective dates.

ASSUMPTIONS:

The clarification of names of prisons and correctional facilities will have minimal impact on signage, letterhead, etc. These costs can be assumed through existing funding.

The Department of Corrections (DOC) currently reviews 2 to 3 applications from therapists (who are not members of the Montana Sex Offender Treatment Association) per year to determine whether the therapist is qualified to perform psychosexual evaluations. The proposed bill would transfer this determination to the Department of Commerce. There would be minimal cost savings to the DOC because of this change. Changes to limited release during employment hours have no effect to the DOC. Upon request from the victim, the DOC currently releases the information under Section 12, MCA, except for the custody level of the offender. This change will have no fiscal impact to the DOC. The Governor's Executive Budget includes the victim notification system as a new proposal, which is repeated below for information. The general fund cost is \$18,600 and the other half will be paid by counties.

There is no fiscal impact to the Department of Public Health and Human Services.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u> [As shown in the Executive Budget]		
Operating Expenses	37,200	37,200
<u>Funding:</u>		
General Fund (01)	18,600	18,600
State Special Revenue (02)	<u>18,600</u>	<u>18,600</u>
Total	37,200	37,200

Dave Lewis 1-15-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

RIC Holden 1-16-97
RIC HOLDEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0109, as introduced

SB 109

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0109, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

Bill for an act related to the Department of Corrections and correctional facilities; providing for certification by the Department of Corrections of appropriations for Youth and probation foster care placements; clarifying names of prisons and correctional facilities and the application of certain statutes to those prisons and facilities; requiring a psychosexual evaluation of certain offenders; requiring that the presentence investigation report be made available to the probation and parole officer in addition to others; providing for qualifications of persons conducting presentence investigations; providing for limited release from jail for purposes of employment; requiring that certain information be made available concerning a person's confinement; clarifying statutes relating to the powers of the Department, correctional facilities, and Prison Industries training programs and providing effective dates.

ASSUMPTIONS:

The clarification of names of prisons and correctional facilities will have minimal impact on signage, letterhead, etc. These costs can be assumed through existing funding.

The Department of Corrections (DOC) currently reviews 2 to 3 applications from therapists (who are not members of the Montana Sex Offender Treatment Association) per year to determine whether the therapist is qualified to perform psychosexual evaluations. This bill would transfer this determination to the Department of Commerce. There would be minimal cost savings to the DOC because of this change. Changes to limited release during employment hours have no effect to the DOC. Upon request from the victim, the DOC currently releases the information under Section 12 except for the custody level of the offender. This change will have no fiscal impact to the DOC.

The Governor's Executive Budget includes the victim notification system as a new proposal which has been funded through House Floor action at a general fund cost of \$37,200 each year of the 1999 biennium.

There is no fiscal impact to Department of Public Health and Human Services.

FISCAL IMPACT:

Based on the above stated assumptions, this bill has no fiscal impact to the DOC.

Jane Lewis 3.20.97
JANE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Ric Holden 3/20/97
RIC HOLDEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0109, reference bill

SB 109 #2

SEN. HALLIGAN asked that Judge Larson have an opportunity to respond to some of the specific concerns raised by the opponents.

Judge Larson commented on the amount of time it takes for a deputy to run back and forth from the regional centers. There are statewide responsibilities on transportation.

CHAIRMAN BRUCE CRIPPEN had concerns about assumption two in the fiscal note which stated that the provisions of this bill would change the allocation of detention funds from a statewide basis to a first come first serve basis. Are the allocations of detention funds on a regional basis?

Mr. Kiser explained that five regions submit a proposed budget to the board and they grant the funds based upon those budgets giving preference to where the facility is located.

CHAIRMAN CRIPPEN felt that under this bill one area could get funds over another area.

Mr. Kiser explained that the assumption of the Board is that the regional facilities would submit the largest bills. Those would be responded to on a reimbursable basis. Towards the end of the budget year, if a county had problems, the funding could be gone.

Closing by Sponsor:

SEN. GAGE closed in advance on SB 172.

HEARING ON SB 109

Sponsor: SEN. RIC HOLDEN, SD 1, Glendive

Proponents: Lois Adams, Department of Corrections

Opponents: None

{Tape: 1; Side: a; Approx. Time Count: 10:57; Comments: .}

Opening Statement by Sponsor:

SEN. RIC HOLDEN, SD 1, Glendive, introduced SB 109. He stated that the bill clarifies the names of the prisons and the correctional facilities across the state. It also explains the requirements for a sex offender therapist and on page 15 it clearly explains what information will be given to crime victims. The bill goes on to define what the word "work" means for inmates.

Proponents' Testimony:

Lois Adams, Department of Corrections, explained the bill contains four issues which are of concern to the department.

First is the clarification of the terms: Montana State Prison, a Montana prison, and the Montana Women's Prison. A Montana prison is generic. We have two prisons which are the men's and the women's prisons. Presently, the women's prison is called the Women's Correctional System. The wording in the present code needs to be expanded to include the regional correctional facilities and the out-of-state detention facility which now holds 250 Montana inmates. In terms of escape statutes, sentencing statutes and other places in the code where the term prison is used, it is critical that we clarify these terms so that an escapee from a regional detention facility does not argue that the escape statute does not apply because the definitions do not match. Page 5 addresses 46-18-111. It specifies that an evaluation of a sex offender prior to sentencing should be a psychosexual evaluation. The department would like to have psychosexual evaluations for every sex offender, not just the sex offenses where the victim was under the age of 16. A proper evaluation is the basis of any treatment which will be provided. The evaluation must be done by a sex offender therapist who is either a member of the Montana Sex Offender Treatment Association or a person who has comparable qualifications and is acceptable to the Professional and Occupational Licensing Bureau of the Department of Commerce. It also makes clear that the persons involved in the prosecution, defense and sentencing are entitled to the presentence investigation. The present code allows the court to make a finding that a PSI of a felony sex offender is not necessary. This bill makes a change in that. The amendment would leave the statute as is. Page 15, Section 12, clarifies what information shall be provided to victims by the department or by the Board of Pardons and Parole. Page 25, Section 24, expands the work that adult offenders must be required to perform to include the manufacture of products or the rendering of services. Page 12, Section 7, changes the term "parole" to "limited release".

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 11:06; Comments: .}

SEN. SUE BARTLETT asked what was being changed in Section 2?

Ms. Adams explained that on page 3, line 8, would be one of the amendments. This states "used for youth court and probation foster care placements if the Department of Corrections certifies to the Supreme Court". Presently the statute refers to the Department of Health and Human Services. This should have been lined out. There should be an underlining of Department of Corrections.

SEN. BARTLETT commented on the proposed change on page 15, lines 9 and 10, from the person's incarceration to person. This would broaden the term.

Ms. Adams stated that they wanted to provide information on the incarceration. They are not allowed to provide personal information on an inmate. This was not their intent.

SEN. BARTLETT, referring to page 17, line 27, asked why the word diagnosis had been dropped in the rephrasing?

Mary Fay, Department of Corrections, stated that with MYA the first 30 days is an assessment phase at Pine Hills School on an as needed basis.

SEN. STEVE DOHERTY asked if psychosexual evaluations were used for certain juvenile offenders at this time?

Ms. Adams explained the psychosexual evaluations were not just for juveniles. They are for all offenders who have been convicted of a sexual offense.

Ms. Fay stated this would be specific to presentence investigations. Previously it only stated an evaluation shall be included. The evaluations may increase if we take out the wording "involving a victim less than 16." They believe that psychosexual evaluations should be completed on any sex offender regardless of the victim's age. Their concern is that it is not done by a therapist who does not have sex offender clinical training.

CHAIRMAN CRIPPEN, referencing page 26, lines 1, 2, and 3, asked why they added the words "including the manufacture of products or the rendering of services"?

Ms. Adams feels they already have that authority. They wanted to have the legislature give another statement to that effect.

CHAIRMAN CRIPPEN asked the procedure when an adult refuses to do anything.

Ms. Adams stated that in prison policy a write up, which is called refusing a direct order, has consequences for the inmate. If an inmate refuses to work on a project, they are written up for disobeying a direct order which has consequences to their privileges, housing status, etc. When someone is incarcerated and their privileges are taken away, there is usually behavior modification.

Closing by Sponsor:

SEN. HOLDEN felt the additional language, instead of creating a list, would be getting away from a list.

**MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE**

ROLL CALL

DATE _____

1/23/97

[illegible]

SEN:1995
wp.rollcall.man
CS-09

DATE 1/23/97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 172, SB 109

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Jo Acton	Corrections	109	✓	
BEVE Kison	MBCC	172		✓
Mary Fay	D.O.C.	109	✓	
Howard W Gipe	Flathead County	172		✓
Gale Keil	Calo Reg Det Center	172		
ALLEN HORSEFAHL	West. MD. Reg. Juven. Detention	172		✓
MARY ALLE COOK	adv. for Children & Families	172		
Gordon Morris	MAC	172		✓
JOIS ADAMS	Corrections	109	✓	
John W Lamm	Detention	172	✓	
Patta Kahler	Missoula County	172	✓	
Leonard Wortman	Jefferson Co.	172		✓
Reggie Beltrone	Cascade Co	172		✓
Charles R. Brooks	Yellowstone Nat	172		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on February 5, 1997, at 8:00 A.M., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)

Members Excused: Sen. Walter L. McNutt (R)

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 231, posted January 27
HB 122, HB 135, posted
February 5,

Executive Action: SB 109, SB 210, SB 222, HB 29

EXECUTIVE ACTION ON SB 109

Amendments: sb010903.avl. (revision of sb010902.avl from February 4, 1997)

Discussion: SENATOR RIC HOLDEN. If we strike "unless the Court makes a finding...", we will have a revised Fiscal Note with about three more FTE, so I want to leave this in the bill. It still gives the judge discretion.

SENATOR SUE BARTLETT. This bill specifies cases with incarceration of one year or more. I suspect this is enough to kill the amendment. I want it noted in the record that in the work of the Study Commission, in dispositions collected from documents, about four out of ten had no pre-sentencing investigations. So this raises questions as to what information judges are relying on in making sentences, and the Courts are not issuing findings as to why they don't think PSI is needed.

SENATOR MIKE HALLIGAN. What if we said, "the Court shall make findings, unless they make a specific finding?"

Motion/Vote: SENATOR HALLIGAN MADE A MOTION TO ADOPT THE LANGUAGE HE JUST PROPOSED AS AN AMENDMENT TO SB 109. THE MOTION CARRIED UNANIMOUSLY.

SENATOR BARTLETT. With these amendments, where do we stand with regard to release of the psychological/sexual evaluation?

Valencia Lane. I tried to address the amendment on page 2. 112 is contents of the report, and 113 is who gets the report.

SENATOR BARTLETT. The evaluation should not be attached to the pre-sentencing report because of confidentiality and privacy issues. Valencia Lane. On page 5, lines 19-20, I inserted "probation and parole officer" to make it the same as 46-18-113, MCA.

SENATOR HALLIGAN. My concern is the availability of and not the attachment of the report. Valencia Lane. The law says the report may not be open to public inspection, so I don't see how confidentiality is breached by the evaluation being included in with the report.

SENATOR BARTLETT. The degree of protection of confidentiality is not always what it should be.

{Tape: 1; Side: A; Approx. Time Count: #19.7; Comments: 8:30 a.m..}

SENATOR SHARON ESTRADA. Mary Fay, the Bureau Chief for Probation and Parole Officers, said the defendant gets a copy of this report, and that is a problem in psychological/sexual reports, as it contains confidential information such as other victim's names. Valencia Lane. The bill, as drafted, said the psychological/sexual evaluation must be provided to probation and parole, law enforcement, the county attorney, and the judge. What is the desire of the Committee and the Department on this? That would mean taking #12 out of the amendments.

SENATOR BARTLETT. I prefer this original language, and then removing the amendment on Section 4, 48-18-112, MCA, and leaving in Section 4, 46-18-113, MCA. SENATORS HALLIGAN AND HOLDEN. That would be okay.

Valencia Lane. Do you want to leave it on page 5 of the bill as it currently appears? SENATOR HALLIGAN. Yes. VICE CHAIRMAN LORENTS GROSFIELD. We should delete amendment #7. Valencia Lane. Then Section 5 would become Section 4. SENATORS HALLIGAN AND BARTLETT. That would be okay.

Motion/Vote: SENATOR HALLIGAN MADE A MOTION TO ADOPT AMENDMENTS SB 010903.AVL WITH THE CORRECTIONS JUST DISCUSSED. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR HOLDEN MADE A MOTION THAT SB 109 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 29

Amendments: sb02902.avl

Motion: SENATOR MIKE HALLIGAN MADE A MOTION TO ADOPT AMENDMENTS sb02902.avl. I believe the amendments are self-explanatory in dealing with the K-12 building and home schools.

Discussion: Valencia Lane. The Office of Public Instruction (OPI) made a suggestion to better the amendment by striking "K-12" in the bill and inserting "school building", and inserting in the title, "definition of a school building".

SENATOR HALLIGAN REVISED HIS MOTION TO INCLUDE THE OPI LANGUAGE.

CHAIRMAN CRIPPEN. Vo-Techs will not be covered, but the Career Center deals only with K-12 kids? VICE CHAIRMAN GROSFIELD. I believe it is a good amendment, as a lot of local school districts are not K-12.

Vote: SENATOR HALLIGAN'S MOTION TO ADOPT AMENDMENTS sb02902.avl CARRIED UNANIMOUSLY.

Discussion: Valencia Lane. I have an amendment prepared if you want to include private schools.

CHAIRMAN CRIPPEN. REPRESENTATIVE BOHLINGER did not indicate it was his intent to also address private schools, and no committee members seem to want to make the bill apply to private schools.

Motion: SENATOR ESTRADA MADE A MOTION THAT HB 29 BE CONCURRED IN AS AMENDED.

SENATOR RIC HOLDEN. Knives are worn to school in a leather case as a matter of course. I believe this should be up to the individual schools, and so oppose the bill.

SENATOR ESTRADA. I live three blocks from Senior High in Billings, and I support the bill.

Amendments to Senate Bill No. 109
First Reading Copy (white)

Requested by Senator Holden
For the Committee on Judiciary

Prepared by Valencia Lane
February 4, 1997

2-597
Ex
Es
unedited
Revision of
sb010902.avl
amd'mts.
+ Bartlett's
+ Halligan's

1. Title, line 10.

Following: "OFFENDERS;"

Insert: "REQUIRING THAT PSYCHOSEXUAL EVALUATIONS AND OTHER
EVALUATIONS PREPARED AS A PART OF SENTENCING AND JUDGMENT BE
INCLUDED IN THE PRESENTENCE INVESTIGATION REPORT; REQUIRING
THAT THE PRESENTENCE INVESTIGATION REPORT BE MADE AVAILABLE
TO THE PROBATION AND PAROLE OFFICER IN ADDITION TO OTHERS;"

NEW

2. Title, line 15.

Strike: "3-5-901,"

Following: "46-18-111,"

new- Insert: "46-18-112, 46-18-113,"

3. Title, line 16.

Strike: "46-24-203,"

4. Page 2, line 13 through page 3, line 13.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 4, line 5.

Following: "in"

Strike: "the"

Insert: "a"

6. Page 5, line 12.

Strike: "involving a victim who was less than 16 years of age
when the offense was committed"

7. Page 5, lines 19 and 20.

Following: "commerce." on line 19

Strike: remainder of line 19 through "judge." on line 20

8. Page 5, lines 24 and 25.

Following: "~~unnecessary~~,"

Strike: remainder of line 24 through "for a" on line 25

Insert: "A"

9. Page 5, line 25.

Following: "~~not~~"

Strike: "an offense"

Insert: "any offense not"

10. Page 5, lines 26 and 27.

Following: "more" on line 26

returns
to
current
code
language
but
keeps
first
strike-out
in
bill
(Bartlett)

Strike: remainder of line 26 through "(1)" on line 27

11. Page 5, line 30.

Strike: "sexual offense"

12. Page 6, line 1.

Insert: "Section 4. Section 46-18-112, MCA, is amended to read:

"46-18-112. Content of presentence investigation report.

(1) Whenever an investigation is required, the probation officer shall promptly inquire into and report upon:

(a) the defendant's characteristics, circumstances, needs, and potentialities;

(b) the defendant's criminal record and social history;

(c) the circumstances of the offense;

(d) the time of the defendant's detention for the offenses charged;

(e) the harm caused, as a result of the offense, to the victim, the victim's immediate family, and the community; and

(f) the victim's pecuniary loss, if any. The officer shall make a reasonable effort to confer with the victim to ascertain whether the victim has sustained a pecuniary loss. If the victim is not available or declines to confer, the officer shall record that information in the report.

(2) All local and state mental and correctional institutions, courts, and law enforcement agencies shall furnish, upon request of the officer preparing a presentence investigation, the defendant's criminal record and other relevant information.

(3) The court may, in its discretion, require that the presentence investigation report include a physical and mental examination of the defendant.

(4) The presentence investigation report must include a psychosexual evaluation prepared under 46-18-111, if any, and any other evaluation of the defendant that is prepared as part of the sentencing and judgment of the defendant."

{Internal References to 46-18-112:
ok 46-14-301}

Section 5. Section 46-18-113, MCA, is amended to read:

"46-18-113. Availability of presentence investigation report. (1) All presentence investigation reports must be a part of the court record but may not be opened for public inspection. A copy of the presentence investigation report must be provided to the prosecution, the defendant and the defendant's attorney, the probation and parole officer, and the agency or institution to which the defendant is committed. The prosecutor may disclose the contents of the presentence report to a victim of the offense.

(2) The court having jurisdiction of the case may permit other access to the presentence investigation report as it considers necessary."

{Internal References to 46-18-113:
ok 46-14-301}

"
Renumber: subsequent sections

13. Page 14, line 20 through page 15, line 13.
Strike: section 11 in its entirety
Renumber: subsequent sections

14. Page 16, line 4.
Following: "pardons"
Insert: "and parole"

15. Page 27, line 11.
Strike: "4"
Insert: "3"

HEARING ON SB 109

Opening Statement by Sponsor: SEN. RIC HOLDEN, SD 1

{Tape: 2; Side: A; Approx. Time Count: 11.5; Comments: Sen. Holden introduced the bill.}

Proponents' Testimony:

LOIS ADAMS, Department of Corrections

EXHIBIT 6

{Tape: 2; Side: A; Approx. Time Count: 14.2; Comments: Exhibit 6 is a proposed amendment to the bill.}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Count: 18.2.}

Close by Sponsor: SEN. HOLDEN

{Tape: 2; Side: A; Approx. Time Count: 23.6.}

=====

EXECUTIVE ACTION

HB 592

MOTION/VOTE: REP. R. JOHNSON MOVED HB 592 BE TABLED. Motion carried 10-0 with REP. KASTEN not voting.

{Tape: 2; Side: A; Approx. Time Count: 25.0.}

SEN. SWYSGOOD: Comment on record re: DOC staff attendance at Committee Hearings.

{Tape: 2; Side: A; Approx. Time Count: 26.0.}

SB 15

MOTION: REP. R. JOHNSON MOVED DO CONCUR.

{Tape: 2; Side: A; Approx. Time Count: 27.2.}

DISCUSSION/EXPLANATION OF SENATE'S AMENDMENTS - SUSAN FOX

VOTE: Motion carried 10-1 with REP. VICK voting no.

{Tape: 2; Side: A; Approx. Time Count: 29.1.}

SB 99

MOTION: SEN. SWYSGOOD MOVED THE BILL.

{Tape: 2; Side: A; Approx. Time Count: 29.3.}

DISCUSSION.

SECOND AMENDMENTS TO SB109.02

EXHIBIT 6

DATE 3/6/97

SB 109

DEPARTMENT OF CORRECTIONS

February 19, 1997

1. Page 16, line 21

Following: "Section 13."

Insert: Section 52-5-101, MCA is amended to read:

52-5-101. Establishment of state youth correctional facilities -- prohibitions. (1) The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate facilities to properly diagnose, care for, train, educate, and rehabilitate youth in need of these services. The youth must be 10 years of age or older and under 19 years of age. The facilities include but are not limited to ~~the state youth correctional facilities at the Mountain View school in Helena and the Pine Hills school~~ juvenile correctional facility in Miles City.

(2) A youth alleged or found to be a youth in need of supervision may not be placed in a state youth correctional facility as defined in 41-5-103.

Renumber subsequent sections.

HOUSE OF REPRESENTATIVES

House Select COMMITTEE ON CORRECTIONS

ROLL CALL

DATE 3/6/97

[illegible]

MOTION: REP. MCGEE MOVED TO RECONSIDER ACTION ON HB 272 (prefer to table). Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 20.7.}

MOTION/VOTE: REP. MCGEE MOVED HB 272 BE TABLED. Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 21.2; Comments:

HB 313

EXHIBIT 4

MOTION: REP. MCGEE MOVED HB 313 DO PASS

{Tape: 2; Side: A; Approx. Time Count: 22.3.}

DISCUSSION

MOTION/VOTE: REP. MCGEE MOVED KITZENBERG AMENDMENT 031301.ADL. Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 24.8.}

MOTION: REP. MCGEE MOVED TO AMENDED HB 313 FURTHER TO HAVE COORDINATION LANGUAGE (WITH HB 102) INCLUDED PER EXPLANATION BY MR. PETESCH.

{Tape: 2; Side: A; Approx. Time Count: 25.5.}

DISCUSSION

VOTE: Motion carried 9-0.

{Tape: 2; Side: A; Approx. Time Count: 38.6.}

MOTION: REP. MCGEE MOVED HB 313 AS AMENDED, AS AMENDED.

{Tape: 2; Side: A; Approx. Time Count: 28.6.}

DISCUSSION

SUBSTITUTE MOTION/VOTE: SEN. CHRISTIAENS MOVED HB 313 BE TABLED. Motion failed 3-5 with REP. KASTEN, SEN. CHRISTIAENS and REP. WYATT voting yes and CHAIRMAN BERGSAGEL not voting.

{Tape: 2; Side: A; Approx. Time Count: 38.8.}

FURTHER DISCUSSION OF HB 313

{Tape: 2; Side: A; Approx. Time Count: 40.0; Comments: Discussion continued on Tape 2, Side B, beginning at tape count 3.3.}

MOTION/VOTE: REP. JOHNSON MOVED HB 313 BE TABLED. Motion carried 6-4 with REP. VICK, REP. MCGEE, REP. McCANN and REP. MENAHAN voting no.

{Tape: 2; Side: B; Approx. Time Count: 9.6.}

BREAK 12:35 p.m.

RECONVENE 1:10 p.m.

SB 109

EXHIBIT 5

MOTION: REP. McCANN MOVED SB 109 BE CONCURRED IN.

{Tape: 2; Side: B; Approx. Time Count: 11.4.}

MOTION/VOTE: REP. JOHNSON MOVED COORDINATING AMENDMENT WITH SB 2 AS EXPLAINED BY SUSAN FOX. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 13.4.}

NOTE: AT THIS POINT IN THE MEETING NOISE FROM THE ROTUNDA BECAME AN ISSUE AND THE COMMITTEE MOVED TO ROOM 317.

{Tape: 2; Side: B; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO STATE YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 21.3.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO DELINQUENT YOUTH/YOUTH IN NEED OF SUPERVISION, AND FOR PINE HILLS YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 25.6.}

DISCUSSION OF FISCAL NOTE FOR SB 109.

VOTE: (SB 109 be concurred in as amended). Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.

{Tape: 2; Side: B; Approx. Time Count: 27.1.}

SB 99

MOTION/VOTE: REP. VICK MOVED TO REMOVE SB 99 FROM THE TABLE.

Motion carried 9-0.

{Tape: 2; Side: B; Approx. Time Count: 29.8.}

MOTION: REP. KASTEN MOVED SB 99 BE CONCURRED IN AS AMENDED.

{Tape: 2; Side: B; Approx. Time Count: 29.9.}

DISCUSSION

VOTE: Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.

{Tape: 2; Side: B; Approx. Time Count: 43.1.}

FURTHER DISCUSSION OF SB 99

{Tape: 2; Side: B; Approx. Time Count: 43.7; Comments: Discussion continued on Tape 3, Side A.}

MOTION/VOTE: REP. JOHNSON MOVED BILL BE DESIGNATED OTO. Motion carried 6-3 with REP. MCGEE, REP. VICK and SEN. CHRISTIAENS voting no.

{Tape: 3; Side: A; Approx. Time Count: 1.2.}

SB 256

EXHIBIT 6

MOTION: REP. MENAHAN MOVED SB 256 BE CONCURRED IN.

{Tape: 3; Side: A; Approx. Time Count: 2.2.}

MOTION: REP. WYATT MOVED AMENDMENTS

{Tape: 3; Side: A; Approx. Time Count: 2.3.}

Amendments to Senate Bill No. 109
Third Reading Copy

EXHIBIT 5
DATE 3/8/97
SB 109

For the Committee on Corrections

Prepared by Greg Petesch
March 7, 1997

1. Title, lines 6 and 7.
Strike: "PROVIDING" on line 6 through "PLACEMENTS;" on line 7
2. Title, line 18.
Strike: "53-1-301,"
Strike: "53-30-131, 53-30-132,"
3. Page 21, line 1 through page 23, line 5.
Strike: section 17 in its entirety
Re-number: subsequent sections
4. Page 25, line 10 through page 26, line 14.
Strike: sections 22 and 23 in their entirety
Re-number: subsequent sections



HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Page 1 of 7

Mr. Speaker: We, the committee on Select Committee on Corrections report that Senate Bill 109 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Ernest Bergsgel, Chair

And, that such amendments read:

Carried by: Rep. Menahan

1. Title, line 16.

Following: "~~3-5-901,~~"

Insert: "41-5-103,"

2. Title, line 17.

Following: "46-24-212,"

Insert: "52-5-101, 52-5-108, 52-5-109, 52-5-112, 52-5-113,"

3. Title, line 18.

Strike: "53-1-301,"

Strike: "53-30-131, 53-30-132,"

4. Page 3, line 15.

Insert: "Section 2. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Correctional facility" means a public or private residential facility used for the placement of delinquent youth or individuals convicted of criminal offenses.

(5) "Court", when used without further qualification, means the youth court of the district court.

Committee Vote:

Yes 9, No 1.

521412SC.Hgd

3-10-97

(6) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given but does not include a person who has only physical custody.

(7) "Delinquent youth" means a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of probation.

(8) "Department" means the department of corrections provided for in 2-15-2301.

(9) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case.

(10) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(11) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-523.

(12) "Foster home" means a private residence licensed by the department for placement of a youth.

(13) "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

(14) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility. The term does not include a jail.

(15) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(16) "Judge", when used without further qualification, means the judge of the youth court.

(17) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and
(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(18) "Necessary parties" includes the youth, the youth's parents, guardian, custodian, or spouse.

(19) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(20) "Probable cause hearing" means the hearing provided for in 41-5-303.

(21) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-811.

(22) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to an informal adjustment, consent decree, or other youth court order.

(23) "Secure detention facility" means any public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(24) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(25) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(26) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-306(1).

(27) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 96 hours, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility or shelter care facility.

(28) "State youth correctional facility" means a residential facility used for the placement and rehabilitation of delinquent

youth, such as the Pine Hills ~~school~~ youth correctional facility in Miles City and the Mountain View ~~school~~ in Helena.

(29) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardian.

(30) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

(31) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court judge and probation officers.

(32) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that:

(a) is operated, administered, and staffed separately and independently of a jail; and

(b) is used exclusively for the lawful detention of alleged or adjudicated delinquent youth.

(33) "Youth in need of care" has the meaning provided for in 41-3-102.

(34) "Youth in need of supervision" means a youth who commits an offense prohibited by law that, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) continues to exhibit behavior beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(c) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of supervision."

Renumber: subsequent sections

5. Page 16, line 21.

Insert: "Section 13. Section 52-5-101, MCA, is amended to read:

"52-5-101. Establishment of state youth correctional facilities -- prohibitions. (1) The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate facilities to properly diagnose, care for, train, educate, and rehabilitate youth in need of these services. The youth must be 10 years of age or older and under 19 years of age. The facilities include but are not limited to the

~~state youth correctional facilities at the Mountain View school in Helena and the Pine Hills school~~ youth correctional facility in Miles City.

(2) A youth alleged or found to be a youth in need of supervision may not be placed in a state youth correctional facility as defined in 41-5-103."

Section 14. Section 52-5-108, MCA, is amended to read:

"52-5-108. Medical examination before admission -- records required to accompany child youth committed. (1) Before a child youth is admitted for any purpose or for any length of time to ~~the Mountain View school, the Pine Hills school,~~ youth correctional facility or other facility under an order of commitment to the department of corrections, the child youth must be examined by a licensed physician. A child youth committed to one of the ~~schools~~ state youth correctional facilities or the department must be accompanied by the order of commitment, a medical examination report, an adequate social history, and any school records.

(2) The medical examination required under this section must be a current, complete physical examination of the child youth."

Section 15. Section 52-5-109, MCA, is amended to read:

"52-5-109. Commitment expenses -- arrangement for transportation. The expenses of committing a child youth to the ~~Mountain View school, the Pine Hills school,~~ youth correctional facility or the department of corrections and transporting the child youth to the ~~Mountain View school, the Pine Hills school,~~ youth correctional facility or the place designated by the department for it to receive custody and the expense of returning the child youth to the county of residence must be borne by the county of residence. The district judge shall arrange for transportation of the child youth to the place where the department has directed that it will receive custody of the child youth."

Section 16. Section 52-5-112, MCA, is amended to read:

"52-5-112. University aid to residents of schools. The department of corrections may, on the recommendation of the superintendent, authorize a resident of ~~the Mountain View school or Pine Hills school~~ a state youth correctional facility who has completed high school and who is otherwise eligible to receive up to \$800 per year toward the resident's expenses incurred in attending a unit of the Montana university system. The money may be used for transportation, clothing, books, board, and room and must be paid in the same manner as other expenses of the school. The board of regents of higher education may waive fees and

tuition for these residents pursuant to 20-25-421. No more than eight residents of each ~~school~~ state youth correctional facility may receive these benefits each year. The department shall notify the board of regents before August 1 of each year of the residents that it has designated to receive the benefits for the next school year."

Section 17. Section 52-5-113, MCA, is amended to read:

"52-5-113. Apprehension and return of youth leaving youth correctional facility without permission. A youth who has left a youth correctional facility of the department of corrections without permission may be apprehended and returned by any citizen. The term "youth correctional facility of the department" means any facility under the supervision and control of the department of corrections that has as its primary function the care, training, custody, and control of youth and specifically includes the Pine Hills ~~school for boys~~ and the Mountain View ~~school for girls~~ youth correctional facility.""
Renumber: subsequent sections

6. Page 18, line 11.

Following: "youth"

Insert: "and youth in need of supervision"

7. Page 18, line 13.

Strike: "school"

Insert: "youth correctional facility"

Strike: "juvenile"

Insert: "state youth"

8. Page 19, line 4.

Following: "youth"

Insert: "and youth in need of supervision"

9. Page 19, line 6.

Strike: "school"

Insert: "youth correctional facility"

Strike: "juvenile"

Insert: "state youth"

10. Page 21, line 1 through page 23, line 5.

Strike: section 17 in its entirety

Renumber: subsequent sections

11. Page 25, line 10 through page 26, line 14.

Strike: sections 22 and 23 in their entirety

Renumber: subsequent sections

12. Page 27, line 18.

Insert: "NEW SECTION. Section 30. Code commissioner
instruction. Wherever a reference to the "Pine Hills
school" is included in legislation enacted by the 55th
legislature, the code commissioner is instructed to change
the reference to the "Pine Hills youth correctional
facility"."

Renumber: subsequent sections

13. Page 27, line 21.

Strike: "15"

Insert: "21"

14. Page 27, line 22.

Strike: "3"

Insert: "4"

-END-

explained. (EXHIBIT #2) The House amendments narrowed the broad program of repair and maintenance to removing litter.

SEN. J.D. LYNCH Are you going to accept the amendment to this bill? SEN. HOLDEN Yes.

SEN. CHRISTIAENS It is still the intent that this program will target parole violators, pre-release and boot camp returns? SEN. HOLDEN Yes, this is in the updated fiscal note.

SEN. TAYLOR We funded FTE's in HB 2 for DOC, this bill adds another 16 FTE's, is this amount to be added to the FTE's already added? Lois Adams, DOC The Governor's executive budget requested 6.75 and 9 FTE's. That is in HB 2 and is not a part of this bill. The department did not request this bill, it came from SEN. HOLDEN. We attached the items in #5 of the fiscal note. (EXHIBIT #2)

SEN. TAYLOR How many FTE's are we adding? Ms. Adams This bill adds 3 FTE's. The Governor's budget adds 6.75 in FY98 and 9 in FY99.

CHAIRMAN SWYSGOOD Was that funded through the appropriations process? Dave Ohler, DOC I believe the subcommittee funded most of these positions. Taryn Purdy, Legislative Fiscal Division I believe that was a new proposal that was not funded.

CHAIRMAN SWYSGOOD This bill, if passed, will require an adjustment to HB 2.

SEN. BECK Has any of this been put into HB 2? CHAIRMAN SWYSGOOD No.

SEN. LYNCH Thirty-eight prison guards were cut, I think they are needed inside the prison to maintain order. This bill has 3 coming out to watch graffiti being cleaned and this causes some concern for me.

CHAIRMAN SWYSGOOD We will forward this bill on to the Senate floor.

{Tape: 1; Side: B; Approx. Time Count: 9:04; Comments: None.}

CONSIDERATION OF HOUSE AMENDMENTS ON SB 109

Sponsor: SEN. RIC HOLDEN, SD 1, GLENDIVE

Discussion: SEN. HOLDEN There were some things the Senate forgot to do on SB 109. We brought these corrections to the House Select Committee on Corrections.

Lois Adams, DOC Two items were left out of the original bill, the name change of Pine Hills School to Pine Hills Youth Correctional Facility. Page 9, line 3-5, changed to say "the

court shall order a pre-sentence report unless the court makes the finding that a report is unnecessary." This is information the judge takes regarding the offender and uses to impose the sentence. Page 23, line 9 is a technical change.

SEN. JENKINS Do we have a girls detention facility now? Mike Ferriter, DOC Presently there is no correction facility for girls. However, we are proposing to reestablish a girls school at Boulder on the same campus as the Montana Youth Alternative program. Presently, our girls go to correction facilities out of state.

SEN. HOLDEN I recommend accepting these amendments.

{Tape: 1; Side: B; Approx. Time Count: 9:36; Comments: None.}

EXECUTIVE ACTION ON SB 2 & SB 109

Motion/Vote: SEN. JENKINS MOVES TO ACCEPT THE HOUSE AMENDMENTS ON SB 2 AND SB 109. THE MOTION CARRIED WITH CHAIRMAN SWYSGOOD VOTING NO ON BOTH BILLS.

{Tape: 1; Side: B; Approx. Time Count: 9:39; Comments: None.}

EXECUTIVE ACTION ON HB 125

Amendments: Amendment #hb012502.asf. (EXHIBIT #3)

Motion: SEN. BAER MOVES TO AMEND HB 125 WITH AMENDMENT #HB012502.ASF.

Discussion: SEN. BAER I appreciate the expression of the department to cooperate with siting in communities and respecting the will of the communities that will be impacted. I felt we should have something statutory to secure that protection for the communities. Therefore, I offer this amendment.

SEN. CHRISTIAENS How broad or narrow an area do you have in mind with this amendment? SEN. BAER It is not my intention to over-reach. The department will be writing administrative rules that will answer that question.

SEN. CHRISTIAENS I would hope SEN. BAER might give some direction as to what he would like to see in the rules. I believe the legislature should give some direction on this. SEN. BAER Would you like an opinion or to amend this amendment?

CHAIRMAN SWYSGOOD We can ask the department how they would interpret this amendment. Mike Ferriter, DOC The draft rules I gave you yesterday talks about siting, public meetings and a survey over a 5 mile radius of the proposed site.

MONTANA SENATE
1997 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE

3/20/97

NAME	PRESENT	ABSENT	EXCUSED
SEN. CHUCK SWYSGOOD, CHAIRMAN	✓		
SEN. TOM KEATING, VICE CHAIRMAN	✓		
SEN. LARRY BAER	✓		
SEN. TOM BECK	✓		
SEN. JIM BURNETT	✓		
SEN. B.V. "CHRIS" CHRISTIAENS	✓		
SEN. EVE FRANKLIN	✓		
SEN. LOREN JENKINS	✓		
SEN. GREG JERGESON	✓		
SEN. J. D. LYNCH	✓		
SEN. DALE MAHLUM	✓		
SEN. KEN MILLER	✓		
SEN. ARNIE MOHL	✓		
SEN. LINDA NELSON	✓		
SEN. MIKE TAYLOR	✓		
SEN. DARYL TOEWS	✓		
SEN. MIGNON WATERMAN	✓		

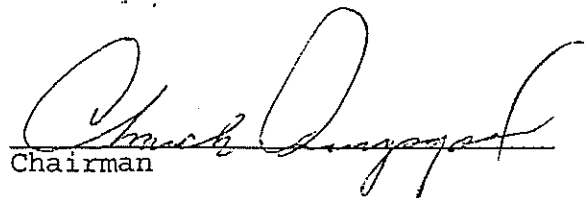
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SENATE COMMITTEE REPORT

DATE: 15 Mar 87

Mr. President:

We, your committee on F & C,
having had under consideration House amendments to Senate Bill
No. 109, recommend that the House
✓ concur in
 reject
the amendments.


Chairman

DATE 3/20/97

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: HB114, HB136, SB2, SB109

PLEASE PRINT

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Check One

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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY